that the defendant company is liable to the consignee for this refusal. *Alcorn* v. *Adams Express Co.*, 45 Chi. Leg. News 151 (Ky.).

There are several theories as to the relation of parties concerned in a shipment over connecting lines. One view is that in the absence of a contrary agreement the connecting carrier is the agent of the initial carrier. *Scothorn* v. *South Staffordshire Ry. Co.*, 8 Exch. 341. Under this view, because of the doctrine of *respondeat superior* the initial carrier is clearly under liability for the entire shipment, and the connecting carrier, it is submitted, would be liable only for negligence. It has also been held that *primâ facie* the initial carrier is the forwarding agent of the shipper, and that the shipper has only such rights as his agent secures him. *Patten* v. *Union Pacific Ry. Co.*, 29 Fed. 590. This seems the proper theory when there is no traffic agreement for through shipments. The principal case follows a third view, that the initial carrier is the agent of the connecting carrier, and that, therefore, the duties of the connecting carrier are determined by the agreement made between the initial carrier and the shipper. *Pittsburg, C., C. & St. L. Ry. Co.* v. *Viers*, 113 Ky. 526, 68 S. W. 469; *Maghee* v. *Camden & Amboy R. Transportation Co.*, 45 N. Y. 514. This reasoning is correct only if there is a traffic agreement authorizing the initial carrier to contract for through shipments. *Houston & T. C. R. Co.* v. *Everett*, 99 Tex. 269, 89 S. W. 761; *Church* v. *Atchison, T. & S. F. Ry. Co.*, 1 Okla. 44, 29 Pac. 530. Otherwise the connecting carrier can clearly refuse goods not offered on terms it could demand of a shipper. *Southern Indiana Express Co.* v. *United States Express Co.*, 88 Fed. 659, aff'd in 92 Fed. 1022. It is submitted, therefore, that the court erred in not requiring proof of such an agreement creating an agency.

CIVIL LAW — RECOGNITION OF ARTIST'S RIGHTS IN PICTURE NOW OWNED BY ANOTHER. — A lady who owned a private residence in Berlin, of which she occupied the upper floor while the lower floor was let to a tenant, desired to have the vestibule of the house decorated by a fresco painting and engaged a well-known artist to do the work. The painting when finished represented an island with some nude figures of sirens. To these nudes the lady who had ordered the painting took exception, and she had another artist over-paint the figures so that they appeared as draped. The first artist contended that this change violated rights which as an artist he had in the integrity of his work, and although the owner covered the altered portion of the fresco by a curtain, he was not satisfied, but brought an action demanding the restoration of the painting to its original condition, or failing in that demand, its entire withdrawal from where it might be visible to strangers. The lower court granted the latter prayers, and the plaintiff appealed. *Held*, that the overpainted drapery must be removed. 79 Entscheidungen des Reichsgerichts 397 (German Imperial Court, 1912).

The holding in this case marks an advance in the law of Germany which has produced considerable interest and discussion in that country. It is noteworthy that although the German law is codified there is no explicit provision of the written law applicable to this controversy. Although it is unlikely that the result could be reached in common-law countries, it is illustrative of the present wide-spread tendency to extend the protection of the law to personal interests of an indefinite character. The court said that the principle of the decision must be deduced from the relative rights of the owner, of the public, of the artist to his reputation, and perhaps from a right of personality, which, even if not recognized as a distinct generic right, may yet be enforced with regard to particular interests. The artist has a legitimate interest that his work shall not be presented to the world otherwise than in the form in which it represents his artistic individuality. If possible this interest should be protected by the law. The difficulty lies in reconciling this right with the right of the owner where, in exceptional cases like the present, a conflict arises between the two.

The owner may remove the painting from public view; he may probably even destroy it; with such possibilities the artist must reckon when he sells his work; but not with the possibility of having the individuality and integrity of his painting violated while leaving it to exist as a work of art which may at some time be viewed and criticized by strangers, even if for the present it is shielded from indiscriminate gaze.

CONSTITUTIONAL LAW — DUE PROCESS OF LAW — PIPE-LINE AMENDMENT TO INTERSTATE COMMERCE ACT. — By an amendment to the Interstate Commerce Act adopted in 1906, Congress provided that all pipe-lines engaged in the interstate transportation of oil should be held common carriers. The act was construed to apply to all pipe-lines irrespective of whether or not they had professed to carry for the public. *Held*, that the act, so construed, is unconstitutional. *Prairie Oil and Gas Co.* v. *United States*, U. S. Commerce Ct., March 11, 1913. See NOTES, p. 631.

CONSTITUTIONAL LAW — PERSONAL RIGHTS — MARTIAL LAW. — The governor of a state with the authority of the legislature, proclaimed martial law in a certain district. The relator was arrested, tried, and sentenced to prison by the military authorities, for an offense committed prior to the governor's proclamation. The state constitution expressly provided that the writ of *habeas corpus* should not be suspended, and that no one should be tried for a civil offense by a military commission. *Habeas corpus* proceedings were instituted in the relator's behalf. *Held*, that necessity justified the imprisonment, at least while the disturbance continued, and that the writ be refused. *State ex rel. Mays* v. *Brown*, 77 S. E. 243 (W. Va.). See NOTES, p. 636.

CONSTITUTIONAL LAW — POWERS OF THE JUDICIARY — OBLIGATION OF COURTS TO GIVE ADVISORY OPINIONS. — Under a constitutional provision that "the Supreme Court shall give its opinion upon important questions upon solemn occasions when required by the Governor," the latter put certain interrogatories. The court declined to answer on the ground that the occasion was not in their judgment sufficiently solemn to require it. *In re Lieutenant Governorship*, 129 Pac. 811 (Colo., Sup. Ct.).

Advisory opinions are purely extra-judicial, and are not binding either as decisions or as precedents. See *Opinion of Justices*, 126 Mass. 557, 566; *Opinion of Court*, 60 N. H. 585. But see *Answer of Justices*, 70 Me. 570, 583; *In re Senate Resolution*, 12 Colo. 466, 467, 21 Pac. 478, 479. They are given without a hearing of interested parties or assistance of counsel, and oftentimes with but an imperfect knowledge of the facts. These considerations, together with a feeling of jealousy for the independence of the judiciary, have often caused the judges, in the few states which have similar constitutional provisions, to be reluctant to give such opinions. See *Opinion of Justices*, 5 Metc. (Mass.) 596, 597; *Opinion of Justices*, 9 Cush. (Mass.) 604. Several courts have declined to answer, as in the principal case, affirming their right to decide whether the question was important or the occasion solemn. *Answer of the Justices*, 148 Mass. 623, 21 N. E. 439; *Answers of Justices*, 95 Me. 564, 51 Atl. 224. These provisions were, however, intended to constitute the judges the legal advisers of the other departments, after the English practice of the king and the House of Lords calling on the judges. See *Opinion of the Justices*, 126 Mass. 557, 561. It is hardly an effective adviser who must answer only when he thinks the questioner needs it. In the nature of things, it seems more reasonable to lodge the power to determine the necessity for advice in the party asking it. The wonted interpretation of such provisions is perhaps influenced by a feeling of their unwisdom and the consequent desirability of restricting the right. See 24 AM. L. REV. 369.